

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 20, 2021

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

SHANE ALLEN MACKINNON,

Defendant.

No. 2:21-CR-00128-RMP-1

ORDER REGARDING AGREED
MOTION TO RECONSIDER
RELEASE OF DEFENDANT TO
INPATIENT TREATMENT

**MOTION DENIED WITH
LEAVE TO RENEW
(ECF No. 38)**

Before the Court is Defendant's Agreed Motion to Reconsider Release of Defendant to Inpatient Treatment, **ECF No. 38**. On December 15, 2021, the Court held a revocation of pretrial release hearing to consider Defendant SHANE ALLEN MACKINNON's Motion for Release from Custody to Sun Ray Court, a residential inpatient treatment program, **ECF No. 36**. Defendant appeared in custody with Attorney Frank Cikutovich appearing telephonically. Assistant U.S. Attorney George Jacobs represented the United States. U.S. Probation Officer Erik Carlson was also present. The Court denied Defendant's motion.

Defendant now moves the Court to reconsider its prior Order and release Defendant to inpatient treatment at American Behavioral Health Services (ABHS)

ORDER - 1

1 in Spokane, Washington. **ECF No. 38.** While the Court appreciates the efforts of
2 Defendant's counsel to address the Court's concerns, particularly with regard to
3 Defendant's mental health, the Court remains unpersuaded that release to an
4 alternate inpatient substance abuse facility, even one with mental health counseling
5 available at the facility, is sufficient to overcome the presumption of detention
6 created by Defendant's actions detailed during the hearing on December 15, 2021,
7 and in the Court's prior Order following the December 15, 2021, hearing. Again,
8 as previously noted, Defendant's prior conduct while already on pretrial release in
9 this matter resulted in Defendant's arrest by local law enforcement authorities for
10 unlawful imprisonment – domestic violence and fourth degree assault – domestic
11 violence on December 7, 2021, followed by formal state charges. Accordingly,
12 based on the foregoing:

13 **IT IS SO ORDERED:**

14 1. Defendant's Agreed Motion to Reconsider Release of Defendant to
15 Inpatient Treatment, **ECF No. 38** is **DENIED with LEAVE TO RENEW.**

16 2. If Defendant wishes to renew the Agreed Motion to Reconsider
17 Release of Defendant to Inpatient Treatment, **ECF No. 38**, Defendant shall file a
18 renewed motion by December 28, 2021, stating how Defendant's release plan
19 overcomes the presumption of detention in 18 U.S.C. § 3148 in light of the Court's
20 prior findings and how the release plan will reasonably assure Defendant's future
21 appearance and the safety of the community and Defendant.

22 3. If Defendant files a renewed motion for release, the United States
23 shall file a response by January 4, 2022, stating the United States' position. If the
24 United States does not oppose release, the United States shall state how
25 Defendant's release plan overcomes the presumption of detention in 18 U.S.C.
26 § 3148 in light of the Court's prior findings and how the release plan will
27

1 reasonably assure Defendant's future appearance and the safety of the community
2 and Defendant. In its response, the United States shall note the position of United
3 States Probation regarding any renewed release plan and the United States shall set
4 forth the current status of any pending charges against Defendant concerning the
5 incident on December 7, 2021, that forms the basis for the allegations in Violation
6 No. 4 at ECF No. 31 addressed during the Court's prior hearing on December 15,
7 2021.

8 4. Any reply shall be filed by January 6, 2022, by 12:00 p.m.

9 5. The Court shall hold a hearing on any renewed motion for release on
10 January 7, 2022, at 1:30 p.m..

11 **IT IS SO ORDERED.**

12 DATED December 20, 2021.



28
James A. Goehke
JAMES A. GOEKE
UNITED STATES MAGISTRATE JUDGE